

§ 1316.4

Anti-Kickback Act of 1986 (41 U.S.C. 51-58) (the Act).

(b) The Act prohibits any person from—

(1) Providing or attempting to provide or offering to provide any kickback;

(2) Soliciting, accepting, or attempting to accept any kickback; or

(3) Including, directly or indirectly, the amount of any kickback in the contract price charged by a prime contractor to TVA or in the contract price charged by the subcontractor to a prime contractor or higher tier subcontractor.

(c)(1) Contractor shall have in place and follow reasonable procedures designed to prevent and detect possible violations described in section (b) of this clause in its own operations and direct business relationships.

(2) When Contractor has reasonable grounds to believe that a violation described in section (b) of this clause may have occurred, Contractor shall promptly report in writing the possible violation. Such reports shall be made to the TVA Inspector General.

(3) Contractor shall cooperate fully with TVA or any other Federal agency investigating a possible violation described in section (b) of this clause.

(4) (i) Regardless of the contract tier at which a kickback was provided, accepted, or charged under the contract in violation of section (b) of this clause, the Contracting Officer may—

(A) Offset the amount of the kickback against any monies owed by TVA under this contract; and/or

(B) Direct that Contractor withhold from sums owed the subcontractor the amount of the kickback.

(ii) The Contracting Officer may order that monies withheld under subsection (c)(4)(i)(B) of this clause be paid over to TVA unless TVA has already offset those monies under subsection (c)(4)(i)(A) of this clause. In the latter case, Contracting shall notify the Contracting Officer when the monies are withheld.

(5) Contractor agrees to incorporate the substance of this clause, including this subsection (c)(5), in all subcontracts under this contract.

(End of clause)

§ 1316.4 Buy American Act supply contracts.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

BUY AMERICAN ACT SUPPLY CONTRACTS

(a) In TVA's acquisition of end products, the Buy American Act (41 U.S.C. 10a-10d) provides that preference be given to domes-

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tic end products. A domestic end product means:

(1) An unmanufactured end product which has been mined or produced in the United States; and

(2) An end product manufactured in the United States if the cost of components thereof which are mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components.

(b) Contractor agrees that there will be delivered under this contract only domestic end products, except end products:

(1) Which are for use outside the United States;

(2) Which TVA determines are not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality;

(3) As to which TVA determines the domestic preference to be inconsistent with the public interest; or

(4) As to which TVA determines the cost to be unreasonable.

(End of clause)

§ 1316.5 Clean Air and Water Acts.

When so indicated in TVA contract documents or actions, the following clause is included by reference in such documents or actions:

CLEAN AIR AND WATER ACTS

(a) If performance of this contract would involve the use of facilities which have given rise to a conviction under section 113(c)(1) of the Clean Air Act (42 U.S.C. 7413) or section 309(c) of the Federal Water Pollution Control Act (33 U.S.C. 1319), offeror shall include in its offer a statement clearly setting forth the facts and circumstances of said conviction and shall list the facilities which gave rise to said conviction. If no such statement is submitted, submission of an offer constitutes certification by the offeror that performance of this contract will not involve the use of facilities which have given rise to a conviction under section 113(c)(1) of the Clean Air Act or section 309(c) of the Federal Water Pollution Control Act. As used in this clause "facilities" shall have the meaning set forth in 40 CFR 15.4.

(b) TVA will not award a contract to any offeror whose performance would involve the use of any facility or facilities which have given rise to a conviction as set forth in paragraph (a) of this clause except to the extent TVA, in its sole judgment, determines that such contract is exempt at the time of contract award from the provisions of 40 CFR part 15 as set forth therein.

(c) A condition of award of this contract is that contractor shall notify the Contracting